

### **REMARKS**

Claims 1-39 were previously pending, and new claims 40-49 have been added by this Amendment.

First, Applicant appreciates the Examiner indicating that claims 1-12 and 21-29 are allowed, and that claims 14, 15, 18-20, 31-33, 38, and 39 would be allowable if rewritten in suitable form to include all of the limitations of the base claims and any intervening claims. Applicant has rewritten the allowable claims referenced above as suggested by the Examiner, such rewritten claims appearing as newly added claims 40-49.

Second, Applicant wishes to thank the Examiner for the courtesy of a telephone interview on June 30, 2004, in which claims 13 and 34 were discussed. Claim 13 (and dependent claims 16 and 17) and claim 34 (as well as dependent claims 35-37) have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Leonard in view of Frye.

Applicant has made suitable amendments to claims 13 and 34, as discussed during the Examiner interview, to patentably distinguish these independent claims, as well as the claims dependent thereon, from the cited references.

As used in amended claim 13, the delivery of “a sustained breathable supply of oxygen” generally means delivering oxygen from the cryogenic device sufficient for the user’s breathing needs over any desired period of time. Of course, the period of time can be long or short, depending on the volume of liquid oxygen available and periodic recharging of the system. The term “sustained” should also be understood as encompassing oxygen delivered intermittently, such as in response to inhalation, or continuously.

Leonard does not deliver “a sustained, breathable supply of oxygen” to the user through an inlet in communication with the gas phase of the oxygen rather than the liquid phase, as called for by amended claim 13. Instead, Leonard must rely on receiving oxygen through an inlet in direct communication with the liquid phase in order to deliver sufficient oxygen for the user’s breathing needs.

Claim 34 has been amended to call for, among other steps, “dispensing a sustained, breathable supply of the oxygen gas to a recipient through a passage in communication with the

volume of the oxygen gas.” This makes claim 34 patentably distinct over the cited prior art for the same reasons discussed above with reference to claim 13.

Claim 30 was rejected under 35 U.S.C. § 102(b) as being anticipated by Gram. Claim 30 has been amended and now calls for a method of charging a portable liquid oxygen system. The Gram patent is directed at a different and non-analogous method of using a cryogenic fluid pump to fill large, non-portable tanks. The teachings of Gram thus do not apply to the method of amended claim 30. Portable liquid oxygen systems are capable of being carried by a user for supplying oxygen for any of a variety of medical or other human conditions. Gram does not disclose methods related to such systems and thus does not anticipate claim 30.

### CONCLUSION

It is respectfully submitted that pending claims 1-49 are allowable. Reconsideration and withdrawal of all rejections are respectfully requested. Favorable notice to this effect and early Notice of Allowance are earnestly solicited.

Should the Examiner have any questions and in order to expedite prosecution of this Application, the Examiner is encouraged to contact the undersigned directly by phone.

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Respectfully submitted,

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